

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL MEMORANDUM**

**HB 1295 – SB 1391**

April 9, 2013

**SUMMARY OF ORIGINAL BILL:** Provides that a pregnant mother can be prosecuted for assaultive offenses if the child is born addicted to or harmed by the woman's illegal use of narcotic drugs or for criminal homicide if the child dies as a result of the woman's illegal use of narcotic drugs.

CORRECTED FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

**SUMMARY OF AMENDMENT (006613):** Deletes all language after the enacting clause.

Removes language from the original bill that would allow a pregnant mother to be prosecuted for criminal homicide if the fetus dies as a result of the mother's illegal use of narcotic drugs.

Provides an affirmative defense to prosecution if the mother actively enrolled in an addiction recovery program before the child is born, remained in the program after delivery, and successfully completed the program.

The provisions of the bill as amended shall cease to be effective on June 30, 2014.

**FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

**Unchanged from the corrected fiscal note.**

Assumptions for the bill as amended:

- Tenn. Code Ann. §§ 39-13-107 and 39-13-214 were amended by 2012 Pub. Ch. 1006, which changed the statutory language relative to human embryos and fetuses. As a result, a pregnant woman could not be prosecuted for harming her unborn child through drug or alcohol abuse. *See* Opinion of the Attorney General 13-01 (Revised) (Feb. 1, 2013). The fiscal note for 2012 Pub. Ch. 1006 did not reflect a decrease in state expenditures from a reduction in convictions. Thus, amending Tenn. Code Ann. §§ 39-13-107 and -214 to allow pregnant mothers to be prosecuted for harming their unborn

**HB 1295 – SB 1391**

child from drug or alcohol abuse will not have a significant impact on the state, as the Department of Correction is currently receiving funding for such admissions.

- The bill, while not returning Tenn. Code Ann. § 39-13-107 and -214 to the same language that existed before 2012 Pub. Ch. 1006, provides that a pregnant woman can be prosecuted for harming her unborn child from drug or alcohol abuse.
- Since the bill essentially returns the law to how it was prior to 2012 Pub. Ch. 1006, it is assumed that the impact to the caseloads of the District Attorneys General Conference, the District Public Defenders Conference, and the Administrative Office of the Courts, will not be significant and that any impact can be accommodated within existing resources.

### **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise".

Lucian D. Geise, Executive Director

/trm